

Ongoing Delays, Non-Compliance by the U.S. Department of Veterans Affairs Causes Hearing Postponement

WASHINGTON - Late last week, U.S. Rep. Harry Mitchell, Chairman of the Oversight and Investigations Subcommittee for the House Veterans Affairs Committee, announced the postponement of a hearing to examine VA outreach efforts to veterans at risk for suicide due to an emerging pattern of delays and non-compliance with subcommittee requests for witnesses and information by the Department of Veterans Affairs (VA).

"Many of our returning veterans and those who served in past generations bear wounds that can't be seen and are difficult to diagnose," said Mitchell. "We can't wait for them to come to the VA. The VA needs to go to them, be held accountable for their action or inaction and be transparent with the progress of their efforts."

The hearing, "Examining the Progress of Suicide Prevention Outreach Efforts at the U.S. Department of Veterans Affairs," was scheduled for April 28, 2010. The hearing was to examine the progress of suicide prevention outreach efforts to veterans - many of whom are not being treated by the VA - who have committed or attempted suicide. The subcommittee had requested Undersecretary for Health, Dr. Robert Petzel, and Assistant Secretary for Public and Intergovernmental Affairs, L. Tammy Duckworth appear to testify, but the VA refused to produce them.

A new hearing date has not yet been set.

On Friday, Mitchell's subcommittee notified the VA that the hearing would be postponed due to ongoing VA delays and non-compliance. Mitchell also wrote to VA Secretary Eric Shinseki urging the Secretary to comply with requests made by Mitchell's Subcommittee and other members of Congress on issues critically important to veterans.

"Unfortunately this is not the first time I've expressed my concerns regarding requests going unanswered or unreasonably delayed. Additionally, as Chairman, I have received complaints from other Members of Congress that their requests for information from the Department are going unanswered or unreasonably delayed. Based on our Subcommittee's recent experience with the Department, I am hardly in a position to dispute them," Mitchell wrote.

As Chairman of the Veterans Affairs' Subcommittee on Oversight and Investigations, Mitchell has repeatedly called upon the VA to increase outreach to veterans who need mental health services and are at risk of suicide. Out of an estimated veteran population of 25 million veterans, only about 8 million veterans are enrolled for health care services through the VA. [Source: [U.S. Census Bureau](#), October 16, 2008; [Department of Veterans Affairs](#), April 17, 2009]

In the wake of an alarming epidemic of veterans committing suicide and months of pressure from Mitchell, he convinced the VA to reverse its long-standing self-imposed ban on television advertising and launch a nationwide public awareness campaign to inform veterans and their families about where they can turn for help. The first public service announcement, promoting a 1-800 telephone suicide prevention hotline, featured current CSI: New York and former Forrest Gump star Gary Sinise. [Source: [CNN](#), May 12, 2009]

Mitchell has previously held numerous hearings on veteran suicides and mental health care, as well as suicide prevention and outreach. His efforts resulted in the VA's reversal of its earlier policy prohibiting the use television media to reach out to service men and women who suffer from mental health disorders when returning from war. [Source: "VA to Test Public Service Ads," [CBS News](#), July 14, 2008]

The nationwide expansion of the VA's public campaign has demonstrated success in saving lives. The hotline received over 160, 000 calls since its inception in 2007. Overall, more than 16,135 veterans were referred to VA medical facilities for care.

The text of Mitchell's letter to Shinseki is below:

April 23, 2010

Honorable Eric K. Shinseki
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Secretary Shinseki:

I am concerned about what appears to be an emerging pattern of non-compliance by the Department of Veterans Affairs with recent Subcommittee requests for witnesses and information. Most recently and notably, I am concerned about the Department's refusal to comply with our Subcommittee's request to produce Undersecretary for Health, Dr. Robert Petzel, and Assistant Secretary for Public and Intergovernmental Affairs, L. Tammy Duckworth, to testify before our oversight hearing, *Examining the Progress of Suicide Prevention Outreach Efforts at the U.S. Department of Veterans Affairs*, that had originally been scheduled for April 28, 2010.

As you may be aware, on April 23, 2010, an *Army Times* article reported that there is troubling new data showing that there is an average of 950 suicide attempts each month by veterans who are receiving some type of treatment from the VA.

The subject of the hearing was to be outreach to all veterans - many of whom are not being treated by the VA - who have committed or attempted suicide.

As you know, our Subcommittee has long believed that the epidemic of veteran suicides, and the VA's outreach efforts to veterans at risk are of paramount concern, and has held numerous oversight hearings on the subject.

On Wednesday, April 21, 2010, we were told by Assistant Secretary of Congressional and Legislative Affairs that the Undersecretary for Health, Dr. Robert Petzel, and Assistant Secretary for Public and Intergovernmental Affairs, L. Tammy Duckworth, would not be

complying with our request.

Our Subcommittee has an obligation, on behalf of our nation's veterans, to examine the VA's efforts to address this problem. We cannot, however, conduct our work without access to appropriate witnesses and appropriate information from the Department of Veterans Affairs. That is one of the reasons why our Committee is vested with subpoena power.

I urge you to reconsider the Department's response, and to produce the requested witnesses.

This most recent exchange follows the Department's decision not to produce Deputy Secretary Gould to testify at the Subcommittee's hearing on February 25, 2010, entitled *Gulf War Illness: The Future for Dissatisfied Veterans*.

. My first request was on October 26, 2009. Again on November 3, 2009, I reiterated the importance of having top leadership who can speak with necessary authority at the hearing. In my third letter, dated January 22, 2010, I stated my position yet again on the importance of Deputy Secretary Gould attending the hearing as a witness.

Instead, on February 18, 2010 we were informed that the Department would not comply with my request and had unilaterally decided to send Chief of Staff, John Gingrich, as a replacement.

As I am sure you are aware, Congress determines who testifies at hearings - not the Department of Veterans' Affairs.

Moreover, I am also concerned that the VA has yet to return questions from our Subcommittee's Acquisition Deficiencies hearing on December 16, 2009. Responses were originally due on February 23, 2010. We granted an extension until March 2, 2010. To date, however, we have yet to receive the VA's response.

Unfortunately, this is not the first time I've expressed my concerns regarding requests going unanswered or unreasonably delayed.

Additionally, as Chairman, I have received complaints from other Members of Congress that their requests for information from the Department are going unanswered or unreasonably delayed. Based on our Subcommittee's recent experience with the Department, I am hardly in a position to dispute them. I am concerned that perhaps what we are experiencing is a cultural problem stemming from a disregard for Congressional prerogatives evident through refusals to send specific requested personnel or waiting until the last minute to inform us they are unavailable, and not responding to the specific requests made through this Subcommittee.

The power of Congress to conduct investigations is inherent in the legislative process. The Supreme Court had held that this power is broad. It encompasses inquires concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste. Congress does not take this power lightly. As the Court has stated, it must be related to, and in furtherance of, a legitimate task of the Congress.

Because this tremendous power is trusted by the Constitution to Congress, it is unquestionably the duty of all citizens to cooperate with the Congress in its efforts to obtain the facts needed for intelligent legislative action. The Supreme Court makes clear the duty of all citizens, and agency officials, that it is their unremitting obligation to respond to subpoenas, to respect the dignity of the Congress and its committees and to testify fully with respect to matters within the province of proper investigation.

I ask that the VA share the same unswerving commitment that I know you do, and be rededicated to a teamwork approach. The American public and veterans demand accountability from the VA through their elected representatives.

I urge you to ensure that the Department responds to all Congressional requests in timely and forthcoming manner. Our veterans deserve nothing less than full accountability and transparency. In this effort, you have my support.

Sincerely,

HARRY E. MITCHELL

Chairman,
Subcommittee on Oversight
and Investigations

¹ Rick Maze, *18 Veterans Commit Suicide Each Day*, Army Times, April 23, 2010 (visited on Apr. 23, 2010) <
http://www.armytimes.com/news/2010/04/military_veterans_suicide_042210w/>.

² *Media Outreach to Veterans, Before the Subcomm. on Oversight and Investigations of the House Vet. Aff. Comm.*, 110th Cong (2007); *Media Outreach to Veterans: an Update, Before the Subcomm. on Oversight and Investigations of the House Vet. Aff. Comm.*, 110th Cong. (2008).

³ Rules of the House of Representatives, *Subpoena power*, Rule XI (m)(1)(B), (m)(3)(A)(i), (m)(3)(C); *See Watkins v. United States*, 354 U.S. 178, 187-8, 200-1 (1957); *See also U.S. House of Representatives v. U.S. Dep't of Commerce*, 11 F.Supp.2d 76, 86 (D.D.C.1998) ("[I]t [is] well established that a legislative body suffers a redressable injury when that body cannot receive information necessary to carry out its constitutional responsibilities. This right to receive information arises primarily in subpoena enforcement cases, where a house of Congress or a congressional committee seeks to compel information in aid of its legislative function.").

⁴ *Watkins v. United States*, 354 U.S. 178, 187-88, 77 S.Ct. 1173, 1 L.Ed.2d 1273 (1957).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* See also *Committee on the Judiciary v. Harriet Miers*, 558 F. Supp.2d 53.